

**DETAILED ACTION**

In view of the appeal brief filed on 7/22/08, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Gene Crawford/

Supervisory Patent Examiner, Art Unit 3651

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim\*\*\* rejected under 35 U.S.C. 103(a) as being unpatentable over \*\*\*.

Claims 1-5,9-13,15-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tarlton U.S. Patent No. 4,627,529.

Claim 1, Tarlton teaches a plastic guide profile (42) having a guide surface (26) over which displaceable objects can slide directly or via a product carrier, and a support structure (32) supporting the guide profile (42), characterized in that the guide profile (42) is engaged at least at two spaced-apart positions by the support structure (32), at least one engaging position of which consists of a free support of the guide profile (42) on the support structure (32) such that the freely supporting side of the guide profile (42) is displaceable relative to the support structure (Fig. 1). Tarlton is silent regarding the material of guide profile 42, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Claim 2, Tarlton teaches the guide profile (42) is coupled rigidly on one side to the support structure (Fig. 2).

Claims 3 and 4, Tarlton teaches the guide profile (42) is provided with a three-dimensional contact surface (34) at the position where it supports freely on the support structure (32) (Fig. 3).

Claim 5, Tarlton teaches the free support of the guide profile (42) on the support structure (32) is formed by a recess (40) in the guide profile (42) in which an engaging part (44) of the support structure (32) engages close-fittingly and displaceably (Fig. 5).

Claim 6, Tarlton teaches a free space is enclosed between the engaging part of the support structure and a part of the recess on the side remote from the engaging part, in which recess the engaging part is axially displaceable (Fig. 3).

Claim 7, Tarlton teaches the guide profile (42) is provided with a guide surface (70) and the recess (40) with the engaging part (44) displaceable therein is formed such that the direction of displacement of the engaging part (44) relative to the recess (40) is at least substantially parallel to the guide surface (70) (Fig. 1).

Claim 9, Tarlton teaches the guide profile (42) is manufactured from a high-molecular polyethylene (C3 L51-52). Tarlton is silent regarding the material of guide profile 42, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Claim 10, Tarlton teaches the support structure is manufactured from metal (C4 L42-43).

Claim 11, Tarlton teaches the engaging part of the support structure and the recess (40) co-acting therewith in the guide profile (42) are at least substantially cylindrical (Fig.5).

Claim 12, Tarlton teaches the guide profile (42) is provided on opposite sides with engaging positions (Fig.5).

Claim 13, Tarlton teaches a plurality of mutually connecting guides (70) wherein a plurality of guide profiles (42) are placed connecting with a gap to each other (Fig.4).

Claim 15, Tarlton teaches the plurality of profile (42) parts are engaged by a single support structure (12,14,16) (Fig.1).

Claim 16, Tarlton teaches the plurality of profile parts form a helical guide track (Fig.1).

Claim 17, Tarlton teaches displacing means for displacing the products for conditioning along the guide, a housing at least partially enclosing the assembled guide and the displacing means, and conditioning means for regulating the atmosphere in the housing (C2 L10-15).

Claim 19, Tarlton teaches a vertically oriented, helical conveyor track with a housing placed there around (Fig.1).

Claim 20, Tarlton teaches a rotatable core is placed in the helical conveyor track (Fig.1).

Claim 21, Tarlton teaches the displacing means comprise a driven endless conveyor track (C1 L53-55).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tarlton U.S. Patent No. 4,627,529 in view of Thompson U.S. Patent No. 1,651,912.

Claim 18, Tarlton does not as Thompson teaches the conditioning means comprise temperature-regulating means (P1 L5-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate temperature controllable features as taught by Thompson into the invention of Tarlton in order to diversify the products the system can handle.

***Allowable Subject Matter***

Claims 8 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KPS

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651

Application/Control Number: 10/561,759  
Art Unit: 3651

Page 7